

STATE OF MICHIGAN

68TH JUDICIAL DISTRICT



JUDGE WILLIAM H. CRAWFORD II • JUDGE HERMAN MARABLE, JR. • JUDGE MICHAEL D. McARA, Chief Judge Pro Tem
JUDGE NATHANIEL C. PERRY III • JUDGE RAMONA M. ROBERTS, Chief Judge • LYNETTE M. WARD, Court Administrator

October 25, 2005

**ATTACHED IS THE RESPONSE OF THE 68TH DISTRICT COURT TO THE 2005
JUDICIAL RESOURCES RECOMMENDATION REPORT FROM THE STATE
COURT ADMINISTRATOR'S OFFICE.**

**630 S. SAGINAW STREET
FLINT, MICHIGAN 48502-1526
(810) 766-8968
FAX (810) 424-4499**

MAGISTRATE 766-8997

ADMINISTRATION 766-8970

PROBATION 766-8960

The State Court Administrator's Office has issued its 2005 Judicial Resources Recommendations Report in which it recommends the elimination of two district court judgeships statewide, one for the 70th District Court, County of Saginaw, and one for our court, the 68th District Court, City of Flint. We must protest the recommendation as to our court and we urgently request that SCAO reconsider. According to the "weighted caseload formula" (which remains an unexplained mystery to us as to how cases are weighted), Flint has 1.37 too many judges and Saginaw County has 2.11 too many judges. Other courts are also "oversourced" with judges, but SCAO found justification for not reducing them and for only reducing Saginaw by one instead of two judges. It is interesting to note the language used for this justification and then to observe how this language is not used for similar, if not identical, circumstances in Flint.

The report notes that case filings in Saginaw (time period used throughout is 2000-2004) decreased 9.3 percent, and the population is stagnant. The report further states that "because Saginaw County continues to experience a high number of serious crimes, and because some of the decrease in caseload is attributed to civil infractions not typically handled by judges, we are recommending the reduction of only one judgeship instead of two at this time." (Compare the analysis to Flint where we had an overall increase in filings, but substantial increases in felonies, 17.7 %, and civil cases, 20.2%, that require substantial judge time). In the 50th District Court in Oakland County, serving Pontiac, there is "an excess of 1.05 judges" but no reduction is recommended because, apparently: "As with other urban communities, the percentage of felony filings continues to increase, as does the number of summary proceedings filings brought for non-payment of rent. Many defendants require court- appointed attorneys. Likewise, many civil litigants appear in court pro per, which affects the amount of time required for court hearings." (Compare to Flint, where economic conditions cause exactly the same circumstances and which we fear may be exacerbated by the recent bankruptcy filing of Delphi and possible further retrenchment by General Motors).

The 36th District Court in Detroit has numbers that somehow indicate a need for an additional 1.64 judges, which is not recommended due to financial and building constraints and a decrease in caseload. The report clearly infers that the resource problems and clientele served should be factored in for future recommendations, since "A substantial portion of the Detroit residents who appear in court qualify for court-appointed publicly funded attorneys or they appear in pro per. Many never pay the fines and costs owed. Many drain judicial resources through repeated appearances in court for unpaid rent, uncorrected environmental violations, probation violations, controlled substance abuse, domestic violence and unpaid consumer debt. In addition, the majority of felonies committed in Wayne County occur within the city limits, requiring the assignment of judges to hear preliminary examinations in numbers much greater than any

non-urban court.” This, again, perfectly describes the situation for Flint’s 68th District Court.

The 8th District Court for Kalamazoo County has a greater “excess of judges”, 1.64, than Flint, but no reduction is recommended because of an increase in population and because caseload and statistical need has increased. It should be noted, however, that the greatest increases for the 8th District were in the area of civil infractions, which are primarily handled by their one full-time and one part-time magistrates, who also handle small claims cases. SCAO points out that “There has been a significant increase in felony filings (30 percent), a factor which affects judge time particularly.” (Emphasis added.) (This brings Kalamazoo closer to Flint’s felony numbers, 354 per judge for Flint to 310 per judge for Kalamazoo, although Flint would rise to 442 per judge if reduced to four judges.) “A chronic jail overcrowding situation in Kalamazoo has significantly affected the way criminal cases are processed. Consequently, the use of judicial resources for probation violation hearings, show cause hearings and bond review hearings have increased. There are 5,075 outstanding bench warrants. As with many counties in urban areas, the 8th District Court sees a large number of pro se litigants. The County Bar Legal Assistance Office has a site at the court to assist with civil cases. This leads to more appearances, more contested cases and consequently more time spent on cases by judges.” (This again closely describes the situation in Flint, except that Flint’s 20.2% increase in civil filings has resulted in 3,238 civil cases per judge which would rise to 4,048 per judge if reduced to four judges.) In other words, 1.64 judges too many is not too many under these circumstances.

Then there is 52nd District Court, a decidedly non-urban court in “Oakland County, the wealthiest County in Michigan.” 52nd apparently has 2.42 too many judges but no recommendation is made for any reduction because of increasing population and the recent increase in judgeships! That is the only justification given! Overall case filings increased .07 percent, exactly the same as Flint! Felonies increased only 3.1 percent, compared to Flint’s 17.7 percent increase, and civil filings increased slightly less than Flint. It should be noted that 52nd had 169 felonies per judge for 2004 while Flint had 354 per judge, which would increase to 442 felonies per judge if divided among only four judges as recommended.

Maybe we on the 68th District Court bench are a little paranoid with thoughts that somebody is out to get us, since we lost a judge less than two years ago and are targeted for another hit this time. Then we read the justifications quoted above and note that every one of those apply to Flint, many more markedly so, but for some reason they apparently do not count in our review and recommendation. We then begin to think it is not just paranoia. Twenty-six percent of Flint’s population is below the poverty line, unemployment is rampant and half of those starting high school here fail to graduate. We have pro per litigants, appointed counsel, repeat offenders, bond violators, probation violators, a busy and contested landlord-tenant docket, a large general civil docket, small claims cases heard exclusively by judges due to a funding situation that allows for only one magistrate (whose available time allows only the handling of civil infractions and weddings) and other staff shortages. SCAO sees these situations as extremely important

for the other courts, but they were not given any consideration when critiquing the Flint 68th District Court. Felonies, which are “...a factor which affects judge time particularly...”, continue to increase (17.7 percent since 2000) in a city which now has the dubious honor of being known as the second most violent city in the country, with a population over 100,000.

If we are cut to four judges we would exceed every other district court named here on a felony per judge basis. In fact, a look at the attached chart shows we would exceed all of those other courts, with the exception of Saginaw, by almost 100 felonies per judge. In comparing our court with the 52nd District, the disparity is incredible: 442 to 169. We would also have two hundred more felonies per judge than our neighbor court, 67th District: 442 to 242. We are not talking about simple matters. Traffic enforcement in Flint is down (which reduces revenue but has only minimal effect on judge time) because the shrinking Flint Police Department is forced to run from one assault or shooting or homicide to another. A murder case takes a lot more judicial time than the other number builders, and we have far more homicides than our fair share. Along with felonies, our civil caseload has increased (20.2 percent), and together “these cases utilize significant judicial resources”. We have 3,238 civil cases per judge filed in 2004, with only our neighboring court, 67th District, being close at 3,068. The other courts noted above and shown on the chart range from 1,881 to 2,746 per judge. Our per judge civil load would increase to 4,048 if cut to four judges, almost 1,000 more per judge than 67th District, and over 2,000 more than 50th District.

It is difficult enough for us to understand SCAO’s position up to this point, but then we turn to the wording they used to describe the participation of 68th and 67th District Courts in Genesee County’s concurrent Jurisdiction Plan to aid the Genesee County Circuit Court. The plan is the same for both courts; we both now handle felony pleas for incarcerated defendants and most civil cases not settled after case evaluation which have been evaluated at less than \$25,000.

SCAO says: “The 67th District Court also provides some assistance to the 7th Circuit Court through a concurrent jurisdiction plan. The 67th District Court has recently been reviewing its ability to offer the circuit court additional help.” (We have no idea what this additional plan is supposed to be, despite our presence at the county’s judicial council meetings.) As to 68th District Court, SCAO says: “The court does assist the 7th Circuit Court with managing a very small portion of its caseload through a concurrent jurisdiction plan.”

It is nearly impossible to believe that the difference in wording was accidental. It appears much more likely that a decision was made in advance to cut 68th and maintain 67th, and to make 67th’s participation sound more positive and 68th’s more minimal, although exactly the same, in an attempt to justify the recommendations.

The bias and prejudice is obvious. Attributing a cut recommendation for our court to population loss and justifying no cut based on population increase when all else is at least equal, if not more heavily in our favor, cannot be defended. An increase in population

will cause some increase in the use of judicial resources, but nowhere near as significant as SCAO's assumed reduction of the need for judicial resources for population decrease in a city such as Flint. We haven't lost the problems, only the overall resources to deal with problems. Our case count has increased, especially as to felonies and civil cases, despite the population drop.

If 68th District Court is cut to four judges, the race to get through the cases will become more frantic and the search for justice less deliberate. We do not have the option of hiring another magistrate or a retired visiting judge to cover vacations and illness because the city, our funding unit, is strapped and we have nowhere to cut. Also, we may not be able to accept special funding just awarded to our court by NAADPC for the implementation of a drug treatment court because it is doubtful we will be able to find enough judge time to operate a drug court with only four judges to handle our caseload. This would be a travesty of justice to continue to deny the citizens of Flint a drug treatment court. Also, there have been discussions about initiating a parental responsibility program to reduce truancy in Flint's schools that would involve the district court.

It is time that we demand equal treatment with the other courts in our state. This prejudice and bias towards urban courts has to stop now! It would be ironic if the 68th District Court and the citizens of Flint had to seek justice from the state legislative and executive branches because none was forthcoming from the administrative office of the judicial branch.

Caseload Analysis RE: SCAO 2005 Judicial Resources Recommendations Report

COURT	68TH	70TH	67TH	50TH	52ND	8TH	54A	36TH
STATISTICAL NEED	-1.37	-2.11	-1.20	-1.05	-2.42	-1.64	-1.17	+1.64
# MAGISTRATES	1	1	4.25	0	PT MAGS	1FT/1PT	1	5

CASELOAD P/JUDGE:

FELONIES	Present	354	365	242	354	169	310	353	333
	Proposed	442	438	242	364	169	310	363	333
NON TRAFFIC MISD	Present	640	446	1145	730	784	1234	933	1190
	Proposed	801	636	1146	730	784	1234	933	1190
TRAFFIC MISD	Present	1220	1800	1468	845	975	939	710	1286
	Proposed	1525	2160	1469	846	976	939	710	1286
OWI	Present	73	195	268	66	291	166	126	67
	Proposed	91	234	268	66	291	166	126	67
CIVIL	Present	3238	1861	3068	2013	2390	2265	2526	2746
	Proposed	4049	2261	3069	2013	2390	2265	2526	2746